

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PEMEX EXPLORACIÓN Y
PRODUCCIÓN,

Plaintiff,

V.

BASF CORPORATION, ET AL.,

Defendants.

Consolidated Cases:

No. 4:10-CV-01997

No. 4:11-CV-02019

Hon. Sim Lake

**DEFENDANTS BIG STAR GATHERING LTD., LLP, JAMES JENSEN, AND
SAINT JAMES ENERGY OPERATING, INC.'S ANSWER TO
PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendants BIG STAR GATHERING LTD., L.L.P. (“Big Star”), JAMES JENSEN (“Jensen”), and SAINT JAMES ENERGY OPERATING, INC. (“St. James”) (together, “Defendants”),¹ through their undersigned counsel, for their answer and affirmative defenses to Plaintiff’s First Amended Complaint (Dkt. No. 378 filed in Consolidated Case No. 4:10-CV-01997), respectfully answer, allege and state:

ANSWER

NATURE OF THE CASE

1. Defendants admit that this lawsuit addresses the trade in the United States of natural gas condensate but deny that these Defendants purchased stolen condensate. Defendants admit the remainder of this paragraph.

¹ Each of Defendants continues to deny liability for the alleged acts of the other Defendants and by virtue of this consolidated answer does not intend to waive any challenge to Plaintiff's allegations of alter ego or other theories of vicarious liability.

2. Denied.

3. Defendants do not have sufficient information to admit or deny whether “some of the Defendants knew, or at least should have known, they were trading on or transporting, stolen condensate.” Denied to the extent such allegations are made against Defendants.

4. This paragraph contains conclusions of law to which no response is required. All other allegations are denied.

JURISDICTION AND VENUE

5. Defendants admit that this Court has subject matter jurisdiction, but James Jensen denies that this Court has personal jurisdiction over him.

6. Defendants Jensen and St. James deny that venue is proper as to them because they do not reside in this venue, and because they did not participate in any events or transactions in the Southern District of Texas that give rise to this controversy.

PARTIES

7. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

8. St. James denies that its principal place of business is in George West, Texas. Defendants deny that Big Star includes St. James and Jensen. All other allegations in this paragraph are admitted.

9. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

10. Defendants deny that Jensen served as, and/or acted within the scope of employment as, General Partner of St. James. Defendants deny that Jensen is included in “Big Star.” Defendants deny that any of the alleged actions that form the basis of this lawsuit were

performed by Jensen in the course of his employment by St. James. All other allegations in this paragraph are admitted.

11. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

12. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

13. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

14. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

15. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

16. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

17. Defendants deny that Big Star includes St. James. All other allegations in this paragraph are admitted.

18. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

19. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

20. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

FACTUAL BACKGROUND

21. This paragraph contains legal conclusions that do not require a response.

22. This paragraph contains legal conclusions that do not require a response.

23. This paragraph contains legal conclusion that do not require a response. To all other allegations, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

24. This paragraph contains legal conclusions that do not require a response. To all other allegations, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

25. This paragraph contains legal conclusions that do not require a response. To all other allegations, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

26. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

27. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

28. This paragraph contains solely legal conclusions that do not require a response and allegations with respect to which Defendants do not have sufficient information to admit or deny.

29. Defendants deny that all of the Mexican condensate they purchased did not originate with a contract with a Pemex entity. Defendants do not have sufficient information to admit or deny the remaining allegations made in this paragraph.

30. This paragraph contains solely legal conclusions that do not require a response and allegations with respect to which Defendants do not have sufficient information to admit or deny.

31. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

32. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

33. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

34. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

35. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

36. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

37. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

38. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

39. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

40. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

41. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

42. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

43. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

44. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

45. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

46. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

47. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

48. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

49. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

50. Defendants deny the allegations made in this paragraph as to themselves and do not have sufficient information to admit or deny the allegations as to other defendants.

51. This paragraph contains legal conclusions that do not require a response. With respect to the allegations made in this paragraph, Defendants deny them as to themselves and do not have sufficient information to admit or deny the allegations as to other defendants.

52. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

53. Defendants deny the allegations against them made in this paragraph. As to all remaining allegations, Defendants do not have sufficient information to admit or deny them.

54. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

55. Defendants deny the allegations against them made in this paragraph. Defendants do not have sufficient information to admit or deny the allegations as to other “Conspiring Defendants.”

56. Defendants deny the allegations against them made in this paragraph. Defendants do not have sufficient information to admit or deny the allegations as to other “Conspiring Defendants.”

57. Defendants deny the allegations against them made in this paragraph. Defendants do not have sufficient information to admit or deny the allegations as to other “Conspiring Defendants.”

58. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

59. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

60. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

61. Denied.

62. Denied.

63. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph regarding Maldonado, AGE, and Plains' actions and/or status. As to all other allegations, denied.

64. Denied.

65. To the extent this paragraph calls for a legal conclusion, no response is required. As to the factual allegations, denied.

66. Denied.

67. Denied.

68. Denied.

69. This paragraph calls for legal conclusions that do not require a response.

70. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

71. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

72. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

73. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

74. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

75. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

76. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

77. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

78. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

79. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

80. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

81. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

82. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

83. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

84. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

85. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

86. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

87. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

88. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

89. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

90. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

91. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

92. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

93. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

94. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

95. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

96. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

97. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

98. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

99. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

100. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

101. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

102. Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

103. This paragraph contains legal conclusions that do not require a response. The allegations contained in this paragraph are denied as to Defendants.

104. Denied that these Defendants' actions were a direct and proximate cause of injuries to Plaintiff. As to all other allegations in this paragraph, Defendants do not have sufficient information to admit or deny them.

105. This paragraph contains legal conclusions that do not require a response. The factual allegations are denied as to these Defendants. As to the other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

106. This paragraph contains legal conclusions that do not require a response.

107. This paragraph contains legal conclusions that do not require a response.

108. This paragraph contains legal conclusions that do not require a response. As to any factual allegations, denied as to these Defendants. As to other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

DISCOVERY RULE AND FRAUDULENT CONCEALMENT

109. Denied as to these Defendants.

110. Denied as to these Defendants. The remaining legal conclusions do not require a response.

111. Denied as to these Defendants. The remaining legal conclusions do not require a response.

112. This paragraph contains legal conclusions that do not require a response.

CLAIMS FOR RELIEF

113. In response to this paragraph, Defendants incorporate their responses contained in the preceding paragraphs.

114. Defendants admit that Plaintiff has brought claims under the laws of Mexico but denies that the laws of Mexico should apply.

115. This paragraph contains legal conclusions that do not require a response. Denied as to these Defendants. As to the other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

116. Denied as to these Defendants. As to other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

117. Denied as to these Defendants. As to other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

118. This paragraph contains legal conclusions that do not require a response.

119. This paragraph contains legal conclusions that do not require a response.

120. This paragraph contains legal conclusions that do not require a response. As to the factual allegations, denied as to these Defendants. As to factual allegations asserted against

other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

121. Denied as to these Defendants. As to other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

122. This paragraph contains legal conclusions that do not require a response. As to the factual allegations, denied as to these Defendants. As to factual allegations asserted against other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

123. This paragraph contains legal conclusions that do not require a response. As to the factual allegations, denied as to these Defendants. As to factual allegations asserted against other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

124. This paragraph contains legal conclusions that do not require a response.

125. This paragraph contains legal conclusions that do not require a response. As to the factual allegations, denied as to these Defendants. As to factual allegations asserted against other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

126. This paragraph contains legal conclusions that do not require a response. As to the factual allegations, denied as to these Defendants. As to factual allegations asserted against other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

127. This paragraph contains legal conclusions that do not require a response. As to the factual allegations, denied as to these Defendants. As to factual allegations asserted against

other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

128. This paragraph contains legal conclusions that do not require a response. As to the factual allegations, denied as to these Defendants. As to factual allegations asserted against other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

129. This paragraph contains legal conclusions that do not require a response.

130. This paragraph contains legal conclusions that do not require a response.

131. This paragraph contains legal conclusions that do not require a response.

132. This paragraph contains legal conclusions that do not require a response. As to the factual allegations, denied as to these Defendants. As to factual allegations asserted against other defendants, Defendants do not have sufficient information to admit or deny the allegations made in this paragraph.

133. This paragraph contains legal conclusions that do not require a response.

JURY TRIAL DEMAND

134. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Defendants demand a trial by jury.

AFFIRMATIVE DEFENSES

141. Defendants assert that Plaintiff's claims against these Defendants are barred by the applicable statutes of limitations and/or laches.

142. To the extent that Plaintiff's complaint fails to state a claim for which relief can be granted, it should be dismissed.

143. Plaintiff's recovery is barred in whole or in part by Plaintiff's complicity and/or other responsibility in the scheme—e.g., through the doctrines of in pari delicto, unclean hands, proportionate fault, comparative responsibility, and negligence. In the event that judgment is rendered in Plaintiff's favor, the amount of such judgment must be reduced based on Plaintiff's contributory negligence and/or fault, as well as the negligence and/or fault of any other party, pursuant to the Proportionate Responsibility Statute, § 33.001, et seq. of the Texas Civil Practices and Remedies Code.

144. Defendants assert that Big Star and St. James were good-faith purchasers and/or sellers, and that to the extent that any stolen condensate was purchased and/or sold, it was done so by mistake and/or unknowingly.

145. Jensen asserts that he is not liable in his individual capacity—whether as Big Star's or St. James's "alter ego" or otherwise—and that he was acting at all relevant times strictly as an officer of Big Star and/or St. James. St. James and Big Star assert that they are not vicariously liable for the actions of the other entity, as the entities are distinct from one another.

146. Some or all of Plaintiff's claims are barred by res judicata, collateral estoppel, release, claim preclusion, and/or waiver.

147. Plaintiff's claims are barred in whole or in part by the one satisfaction rule, to the extent that Plaintiff has already received restitution for its alleged damages from third parties or current or former defendants. Additionally, any amounts recoverable by Plaintiff must be offset by amounts it has already recovered from third parties or current or former defendants.

148. Plaintiff's request for punitive damages are barred or otherwise limited by the U.S. Constitution.

149. Plaintiff's claims against Defendants are barred because any of Plaintiff's alleged injuries were not proximately caused by Defendants.

150. Plaintiff's claims are barred due to its failure to mitigate damages, if any.

151. Plaintiff's claims are barred by accord and satisfaction.

152. Plaintiff's claims purported brought under Mexico law are barred by law of the case.

REQUEST FOR ATTORNEYS' FEES

152. Pursuant to the Texas Theft Liability Act (Tex. Civ. Prac. & Rem. Code § 134.005(b)), Defendants seek the recovery of attorneys' fees incurred in connection with defending against Plaintiff's claims.

PRAYER

Based on the foregoing answers and affirmative defenses, respectfully request that this Court enter judgment as follows:

- (a) Dismissing Plaintiff's claims against these Defendants in their entirety, with prejudice;
- (b) Denying Plaintiff's equitable relief for a constructive trust;
- (c) Awarding Defendants their attorneys' fees; and
- (d) Awarding all such further relief to which Defendants may be entitled, whether at law or in equity.

DATED: May 16, 2012

Respectfully submitted,

GIBBS & BRUNS, LLP

/s/ *Grant Harvey*

Grant J. Harvey

Federal ID No. 14145
TX Bar No. 09177700
1100 Louisiana Street, Suite 5300
Houston, TX 77002-5215
Telephone: (713) 650-8805
Facsimile: (713) 750-0903
gharvey@gibbsbruns.com

**ATTORNEY-IN-CHARGE FOR
DEFENDANTS BIG STAR GATHERING
LTD., LLP, JAMES JENSEN, AND
SAINT JAMES ENERGY OPERATING, INC.**

OF COUNSEL:

Ayesha Najam
Federal ID No. 605948
State Bar No. 24046507
GIBBS & BRUNS, LLP
1100 Louisiana Street, Suite 5300
Houston, TX 77002-5215
Phone: (713) 650-8805
Fax: (713) 750-0903
anajam@gibbsbruns.com

John H. Kim
THE KIM LAW FIRM
Federal ID No. 15626
State Bar No. 00784393
4309 Yoakum, Ste. 2000
Houston, Texas 77006
Phone: (713) 522-1177
Fax: (888) 809-6793
jhk@thekimlawfirm.com

Michael C. Watson
Federal ID No. 25743
State Bar No. 24025705
4309 Yoakum, Suite 3000
Houston, Texas 77006
(713) 254-4315 - Telephone
(713) 400-1864 - Facsimile
mwatson@michaelcwatson.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been provided to counsel of record in this action through the Court's electronic service/ECF system on this 16th day of May, 2012.

/s/ *Ayesha Najam*
Ayesha Najam